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App. Docket: 74451.P118

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Technology Center 2100

In Re Application of:)
)
David G. Stork)
)
Application No: 09/534,950)
)
Filing Date: March 24, 2000)
)
For: A METHOD AND APPARATUS)
FOR OPEN DATA COLLECTION)
)

Examiner: Booker, Kelvin E.

Art Unit: 2121

Confirm No. 1960

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Petition Under 37 CFR 1.181

Sir:

Applicants are appealing to have the original Response After Final Action sent April 29, 2003 entered, and a Notice of Allowance sent.

FIRST CLASS CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

on JUNE 30, 2003
Date of Deposit

Judith Szepesi

Name of Person Mailing Correspondence

Judith Szepesi
Signature

6/30/03
Date

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Applicants received a Final Office Action, sent on January 29, 2003, which allowed claims 15 and 16, and objected to claims 3-5, 8, 9, 11, 13, 14, 21, and 22. In response, Applicants presented Amendment After Final, in which the limitation of objected-to claim 5 was incorporated into independent claims 1 and 17.

In an Advisory Action, sent May 14, 2003, the Examiner rejected the Amendment After Final, stating that the Amendment raised new issues.

Applicants contacted Examiner Kelvin Booker, and attempted to explain that the only amendment made was to incorporate the limitation from an objected-to claim into the independent claim. The Examiner, after repeated discussions, refused to consider the Amendment After Final, and suggested that Applicants file an RCE.

Applicants have filed an RCE herewith – because of the time limitation – however, Applicants believe that the requirement to file this RCE was made in error. The Examiner should have entered the original Amendment After Final, since it did not raise any new issues, and put the claims into proper format for allowance.


Therefore, Applicants are petitioning to have the original Amendment After Final entered, and a Notice of Allowance sent, and therefore refund the cost of the concurrently filed RCE and extension of time.

If a telephone interview would clarify any portion of this Petition, the Commissioner is invited to contact Judith Szepesi at (408) 720-8300.

If there are any additional charges/credits, please charge/credit our deposit account no. 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 6/30/03


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